



## 103RD GENERAL ASSEMBLY

### State of Illinois

### 2023 and 2024

### SB2885

Introduced 1/24/2024, by Sen. Suzy Glowiak Hilton

#### SYNOPSIS AS INTRODUCED:

220 ILCS 5/9-224	from Ch. 111 2/3, par. 9-224
220 ILCS 5/9-224.1 new	
220 ILCS 5/9-225	from Ch. 111 2/3, par. 9-225
220 ILCS 5/9-227	from Ch. 111 2/3, par. 9-227
220 ILCS 5/9-229	
220 ILCS 5/9-231 new	

Amends the Public Utilities Act. Provides that the Illinois Commerce Commission shall not consider as an expense of any public utility, for the purpose of determining any rate or charge, any amount expended for contributions or gifts to political candidates, political parties, political or legislative committees, or any committee or organization working to influence referendum petitions or elections or contributions to a trade association, chamber of commerce, or public charity, including, but not limited to, a charity managed by the public utility or affiliated interest. Provides that the Commission shall not consider as an expense of any public utility, for the purpose of determining any rate or charge, any amount expended by the public utility for director and officers liability insurance and fiduciary liability insurance. Provides that in determining whether other types of insurance purchased by the public utility are recoverable, the Commission shall determine whether the insurance is of financial benefit to ratepayers of the public utility or its shareholders. Provides that if the Commission determines the insurance purchased by the public utility is of benefit to its shareholders, then it shall not be a recoverable expense. Provides that, if a gas, electric, water, or sewer utility requests a general rate increase, the Commission shall hold at least one public hearing for the public to provide input on the proposed increase in rates. Provides that the public hearing shall be held in the service area of the public utility that is requesting the general rate increase at a time and location determined by the Commission. Makes changes in provisions definitions; donations made by a public utility for energy assistance; consideration of attorney and expert compensation as an expense; and the Consumer Intervenor Compensation Fund.

LRB103 37455 SPS 67577 b

1 AN ACT concerning regulation.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Public Utilities Act is amended by changing  
5 Sections 9-224, 9-225, 9-227, and 9-229 and by adding Sections  
6 9-224.1 and 9-231 as follows:

7 (220 ILCS 5/9-224) (from Ch. 111 2/3, par. 9-224)

8 Sec. 9-224. The Commission shall not consider as an  
9 expense of any public utility ~~company~~, for the purpose of  
10 determining any rate or charge, any amount expended for  
11 political activity or lobbying as defined in the "Lobbyist  
12 Registration Act". The Commission shall also not consider as  
13 an expense of any public utility, for the purpose of  
14 determining any rate or charge, any amount expended for  
15 contributions or gifts to political candidates, political  
16 parties, political or legislative committees, or any committee  
17 or organization working to influence referendum petitions or  
18 elections or contributions to a trade association, chamber of  
19 commerce, or public charity, including, but not limited to, a  
20 charity managed by the public utility or affiliated interest.

21 (Source: P.A. 84-617.)

22 (220 ILCS 5/9-224.1 new)

1       Sec. 9-224.1. Insurance expenses. The Commission shall not  
2 consider as an expense of any public utility, for the purpose  
3 of determining any rate or charge, any amount expended by the  
4 public utility for director and officers liability insurance  
5 and fiduciary liability insurance. In determining whether  
6 other types of insurance purchased by the public utility are  
7 recoverable, the Commission shall determine whether the  
8 insurance is of financial benefit to ratepayers of the public  
9 utility or its shareholders. If the Commission determines the  
10 insurance purchased by the public utility is of benefit to its  
11 shareholders, then it shall not be a recoverable expense.

12       (220 ILCS 5/9-225) (from Ch. 111 2/3, par. 9-225)

13       Sec. 9-225. (1) For the purposes of this Section:

14           (a) "Advertising" means the commercial use, by an  
15       electric, gas, water, or sewer utility, of any media,  
16       including newspapers, printed matter, radio and  
17       television, in order to transmit a message to a  
18       substantial number of members of the public or to such  
19       utility's consumers;

20           (b) "Political advertising" means any advertising for  
21       the purpose of influencing public opinion with respect to  
22       legislative, administrative or electoral matters, or with  
23       respect to any controversial issue of public importance;

24           (c) "Promotional advertising" means any advertising  
25       for the purpose of encouraging any person to select or use

1 the service or additional service of a utility or the  
2 selection or installation of any appliance or equipment  
3 designed to use such utility's service; and

4 (d) "Goodwill or institutional advertising" means any  
5 advertising either on a local or national basis designed  
6 primarily to bring the utility's name before the general  
7 public in such a way as to improve the image of the utility  
8 or to promote controversial issues for the utility or the  
9 industry.

10 (2) In any general rate increase requested by any gas,  
11 electric, water, or sewer utility company under the provisions  
12 of this Act, the Commission shall not consider, for the  
13 purpose of determining any rate, charge or classification of  
14 costs, any direct or indirect expenditures for promotional,  
15 political, or institutional advertising ~~or goodwill~~  
16 ~~advertising~~, unless the Commission finds the advertising to be  
17 in the best interest of the Consumer or authorized as provided  
18 pursuant to subsection 3 of this Section.

19 (3) The following categories of advertising shall be  
20 considered allowable operating expenses for gas, electric,  
21 water, or sewer utilities:

22 (a) Advertising which informs consumers how they can  
23 conserve energy or water, reduce peak demand for electric  
24 or gas energy, or reduce demand for water;

25 (b) Advertising required by law or regulations,  
26 including advertising required under Part I of Title II of

1 the National Energy Conservation Policy Act;

2 (c) Advertising regarding service interruptions,  
3 safety measures or emergency conditions;

4 (d) Advertising concerning employment opportunities  
5 with such utility;

6 (e) Advertising which promotes the use of energy  
7 efficient appliances, equipment or services;

8 (f) Explanations of existing or proposed rate  
9 schedules or notifications of hearings thereon;

10 (g) Advertising that identifies the location and  
11 operating hours of company business offices;

12 (h) Advertising which promotes the shifting of demand  
13 from peak to off-peak hours or which encourages the  
14 off-peak usage of the service; and

15 (i) "Other" categories of advertisements not  
16 includable in paragraphs (a) through (h), but which are  
17 not political, promotional, institutional or goodwill  
18 advertisements.

19 (4) Notwithstanding subsections (2) and (3) of this  
20 Section, goodwill or institutional advertising is not a  
21 recoverable expense.

22 (Source: P.A. 95-814, eff. 8-13-08.)

23 (220 ILCS 5/9-227) (from Ch. 111 2/3, par. 9-227)

24 Sec. 9-227. It shall be proper for the Commission to  
25 consider as an operating expense, for the purpose of

1 determining whether a rate or other charge or classification  
2 is sufficient, donations made by a public utility for energy  
3 assistance. Donations to the public welfare or for charitable  
4 scientific, religious or educational purposes shall be  
5 nonrecoverable shareholder expenses , ~~provided that such~~  
6 ~~donations are reasonable in amount. In determining the~~  
7 ~~reasonableness of such donations, the Commission may not~~  
8 ~~establish, by rule, a presumption that any particular portion~~  
9 ~~of an otherwise reasonable amount may not be considered as an~~  
10 ~~operating expense. The Commission shall be prohibited from~~  
11 ~~disallowing by rule, as an operating expense, any portion of a~~  
12 ~~reasonable donation for public welfare or charitable purposes.~~

13 (Source: P.A. 85-122.)

14 (220 ILCS 5/9-229)

15 Sec. 9-229. Consideration of attorney and expert  
16 compensation as an expense and intervenor compensation fund.

17 (a) The Commission shall deem as a nonrecoverable expense  
18 by a public utility ~~specifically assess the justness and~~  
19 ~~reasonableness of~~ any amount expended by a public utility to  
20 compensate attorneys or technical experts to prepare and  
21 litigate a general rate case filing. This issue shall be  
22 expressly addressed in the Commission's final order.

23 (b) The State of Illinois shall create a Consumer  
24 Intervenor Compensation Fund subject to the following:

25 (1) Provision of compensation for Consumer Interest

1 Representatives that intervene in Illinois Commerce  
2 Commission proceedings will increase public engagement,  
3 encourage additional transparency, expand the information  
4 available to the Commission, and improve decision-making.

5 (2) As used in this Section, "Consumer interest  
6 representative" means:

7 (A) a residential utility customer or group of  
8 residential utility customers represented by a  
9 not-for-profit group or organization registered with  
10 the Illinois Attorney General under the Solicitation  
11 for ~~of~~ Charity Act;

12 (B) representatives of not-for-profit groups or  
13 organizations whose membership is limited to  
14 residential utility customers; or

15 (C) representatives of not-for-profit groups or  
16 organizations whose membership includes Illinois  
17 residents and that address the community, economic,  
18 environmental, or social welfare of Illinois  
19 residents, except government agencies ~~or intervenors~~  
20 specifically authorized by Illinois law to participate  
21 in Commission proceedings on behalf of Illinois  
22 consumers.

23 (3) A consumer interest representative is eligible to  
24 receive compensation from the consumer intervenor  
25 compensation fund if its participation included lay or  
26 expert testimony or legal briefing and argument concerning

1 the expenses, investments, rate design, rate impact, or  
2 other matters affecting the pricing, rates, costs or other  
3 charges associated with utility service, the Commission  
4 adopts a material recommendation related to a significant  
5 issue in the docket, and participation caused a  
6 significant financial hardship to the participant;  
7 however, no consumer interest representative shall be  
8 eligible to receive an award pursuant to this Section if  
9 the consumer interest representative receives any  
10 compensation, funding, or donations, directly or  
11 indirectly, from parties that have a financial interest in  
12 the outcome of the proceeding.

13 (4) Within 30 days after the effective date of this  
14 amendatory Act of the 102nd General Assembly, each utility  
15 that files a request for an increase in rates under  
16 Article IX or Article XVI shall deposit an amount equal to  
17 one half of the rate case attorney and expert expense  
18 reported to ~~allowed by~~ the Commission, but not to exceed  
19 \$500,000, into the fund within 35 days of the date of the  
20 Commission's final Order in the rate case or 20 days after  
21 the denial of rehearing under Section 10-113 of this Act,  
22 whichever is later. The Consumer Intervenor Compensation  
23 Fund shall be used to provide payment to consumer interest  
24 representatives as described in this Section and shall not  
25 be a recoverable expense by the public utility.

26 (5) An electric public utility with 3,000,000 or more



1 retail customers shall contribute \$450,000 to the Consumer  
2 Intervenor Compensation Fund within 60 days after the  
3 effective date of this amendatory Act of the 102nd General  
4 Assembly. A combined electric and gas public utility  
5 serving fewer than 3,000,000 but more than 500,000 retail  
6 customers shall contribute \$225,000 to the Consumer  
7 Intervenor Compensation Fund within 60 days after the  
8 effective date of this amendatory Act of the 102nd General  
9 Assembly. A gas public utility with 1,500,000 or more  
10 retail customers that is not a combined electric and gas  
11 public utility shall contribute \$225,000 to the Consumer  
12 Intervenor Compensation Fund within 60 days after the  
13 effective date of this amendatory Act of the 102nd General  
14 Assembly. A gas public utility with fewer than 1,500,000  
15 retail customers but more than 300,000 retail customers  
16 that is not a combined electric and gas public utility  
17 shall contribute \$80,000 to the Consumer Intervenor  
18 Compensation Fund within 60 days after the effective date  
19 of this amendatory Act of the 102nd General Assembly. A  
20 gas public utility with fewer than 300,000 retail  
21 customers that is not a combined electric and gas public  
22 utility shall contribute \$20,000 to the Consumer  
23 Intervenor Compensation Fund within 60 days after the  
24 effective date of this amendatory Act of the 102nd General  
25 Assembly. A combined electric and gas public utility  
26 serving fewer than 500,000 retail customers shall

1 contribute \$20,000 to the Consumer Intervenor Compensation  
2 Fund within 60 days after the effective date of this  
3 amendatory Act of the 102nd General Assembly. A water or  
4 sewer public utility serving more than 100,000 retail  
5 customers shall contribute \$80,000, and a water or sewer  
6 public utility serving fewer than 100,000 but more than  
7 10,000 retail customers shall contribute \$20,000.

8 (6) (A) Prior to the entry of a Final Order in a  
9 docketed case, the Commission Administrator shall provide  
10 a payment to a consumer interest representative that  
11 demonstrates through a verified application for funding  
12 that the consumer interest representative's participation  
13 or intervention without an award of fees or costs imposes  
14 a significant financial hardship based on a schedule to be  
15 developed by the Commission. The Administrator may require  
16 verification of costs incurred, including statements of  
17 hours spent, as a condition to paying the consumer  
18 interest representative prior to the entry of a Final  
19 Order in a docketed case.

20 (B) If ~~the Commission adopts a material recommendation~~  
21 ~~related to a significant issue in the docket and~~  
22 participation caused a financial hardship to the  
23 participant, then the consumer interest representative  
24 shall be allowed payment for some or all of the consumer  
25 interest representative's reasonable attorney's or  
26 advocate's fees, reasonable expert witness fees, and other

1 reasonable costs of preparation for and participation in a  
2 hearing or proceeding. Expenses related to travel or meals  
3 shall not be compensable.

4 (C) The consumer interest representative shall submit  
5 an itemized request for compensation to the Consumer  
6 Intervenor Compensation Fund, including the advocate's or  
7 attorney's reasonable fee rate, the number of hours  
8 expended, reasonable expert and expert witness fees, and  
9 other reasonable costs for the preparation for and  
10 participation in the hearing and briefing within 30 days  
11 of the Commission's final order after denial or decision  
12 on rehearing, if any.

13 (7) Administration of the Fund.

14 (A) The Consumer Intervenor Compensation Fund is  
15 created as a special fund in the State treasury. All  
16 disbursements from the Consumer Intervenor Compensation  
17 Fund shall be made only upon warrants of the Comptroller  
18 drawn upon the Treasurer as custodian of the Fund upon  
19 vouchers signed by the Executive Director of the  
20 Commission or by the person or persons designated by the  
21 Director for that purpose. The Comptroller is authorized  
22 to draw the warrant upon vouchers so signed. The Treasurer  
23 shall accept all warrants so signed and shall be released  
24 from liability for all payments made on those warrants.  
25 The Consumer Intervenor Compensation Fund shall be  
26 administered by an Administrator that is a person or

1 entity that is independent of the Commission. The  
2 administrator will be responsible for the prudent  
3 management of the Consumer Intervenor Compensation Fund  
4 and for recommendations for the award of consumer  
5 intervenor compensation from the Consumer Intervenor  
6 Compensation Fund. The Commission shall issue a request  
7 for qualifications for a third-party program administrator  
8 to administer the Consumer Intervenor Compensation Fund.  
9 The third-party administrator shall be chosen through a  
10 competitive bid process based on selection criteria and  
11 requirements developed by the Commission. The Illinois  
12 Procurement Code does not apply to the hiring or payment  
13 of the Administrator. All Administrator costs may be paid  
14 for using monies from the Consumer Intervenor Compensation  
15 Fund, but the Program Administrator shall strive to  
16 minimize costs in the implementation of the program.

17 (B) The computation of compensation awarded from the  
18 fund shall take into consideration the market rates paid  
19 to persons of comparable training and experience who offer  
20 similar services, but may not exceed the comparable market  
21 rate for services paid by the public utility as part of its  
22 nonrecoverable rate case expense reported to the  
23 Commission.

24 (C) (1) Recommendations on the award of compensation by  
25 the administrator shall include ~~consideration of whether~~  
26 ~~the Commission adopted a material recommendation related~~

1 ~~to a significant issue in the docket~~ and whether  
2 participation caused a financial hardship to the  
3 participant and the payment of compensation is fair, just  
4 and reasonable.

5 (2) Recommendations on the award of compensation by  
6 the administrator shall be submitted to the Commission for  
7 approval. Unless the Commission initiates an investigation  
8 within 45 days after the notice to the Commission, the  
9 award of compensation shall be allowed 45 days after  
10 notice to the Commission. Such notice shall be given by  
11 filing with the Commission on the Commission's e-docket  
12 system, and keeping open for public inspection the award  
13 for compensation proposed by the Administrator. The  
14 Commission shall have power, and it is hereby given  
15 authority, either upon complaint or upon its own  
16 initiative without complaint, at once, and if it so  
17 orders, without answer or other formal pleadings, but upon  
18 reasonable notice, to enter upon a hearing concerning the  
19 propriety of the award.

20 (c) The Commission may adopt rules to implement this  
21 Section.

22 (Source: P.A. 102-662, eff. 9-15-21.)

23 (220 ILCS 5/9-231 new)

24 Sec. 9-231. Public hearings. If a gas, electric, water, or  
25 sewer utility requests a general rate increase, the Commission

1 shall hold at least one public hearing for the public to  
2 provide input on the proposed increase in rates. The public  
3 hearing shall be held in the service area of the public utility  
4 that is requesting the general rate increase at a time and  
5 location determined by the Commission.